

“Mehtas filed MA 8 of 2016 to seek relief of compliance by Custodian with all the previous orders passed by Hon’ble Special Court directing him to cause recovery of their attached assets and also provided a list of several such orders. Grievance was made that the Custodian was deliberately not recovering the attached assets and had not even created any reporting system before Hon’ble Special Court on the progress of compliance so that the Custodian could then have a freedom to deal with the attached assets and confer benefits onto third parties at the cost of Mehtas. That while highest emphasis was given by Hon’ble Supreme Court to recovery of attached assets by casting a duty on the Special Court to recover them from third parties but to serve its several ulterior objects the Custodian was not placing the facts of pending recoveries before Special Court and assets of thousands of crores were yet pending to be recovered.”

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BEFORE THE SPECIAL COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992

MISC. APPLICATION NO. 8 OF 2016

1. SMT JYOTI H MEHTA)
In her individual capacity and as)
legal heir of late Harshad S Mehta)
2. SHRI ASHWIN S MEHTA)
3. SMT DEEPIKA A MEHTA)
4. DR HITESH S MEHTA)
5. DR PRATIMA H MEHTA)
6. SHRI SUDHIR S MEHTA)
7. SMT RASILA S MEHTA)
8. SMT RINA S MEHTA)
9. M/S GROWMORE RESEARCH &)
ASSETS MANAGEMENT LTD)
10. M/S GROWMORE LEASING &)
INVESTMENTS LTD)
11. M/S GROWMORE EXPORTS LTD)
12. M/S ORION TRAVELS PVT LTD)
13. M/S PALLAVI HOLDINGS PVT LTD)
14. M/S TOPAZ HOLDINGS PVT LTD)
15. M/S HARSH ESTATES PVT LTD)
16. M/S AATUR HOLDINGS PVT LTD)
Nos.9 to 16 through its Director)
Shri Ashwin S Mehta)
17. M/S FORTUNE HOLDINGS PVT LTD)
18. M/S ZEST HOLDINGS PVT LTD)
19. M/S DIVINE HOLDINGS PVT LTD)
20. M/S VELVET HOLDINGS PVT LTD)
21. M/S EMINENT HOLDINGS PVT LTD)
22. M/S CASCADE HOLDINGS PVT.LTD)
Through its Director Dr Hitesh)
S Mehta)
All residing and having Offices)

situated at 32 Madhuli, Dr Annie)
 Besant Road, Worli,)
 Mumbai 400 018.)..APPLICANTS

V/s

1. THE CUSTODIAN,)
 Office of the Custodian,)
 10th Floor, Nariman Bhawan,)
 Nariman Point, Mumbai 400 021.)

**HUMBLE APPLICATION OF
 THE APPLICANTS ABOVE
 NAMED**

MOST RESPECTFULLY SHEWETH

1. The Applicants are all notified entities and they have come to be notified by the Custodian u/s 3(2) of The Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (herein after referred to as "**the said Act**"). That upon notification, all the assets of the Applicants have got automatically attached irrespective of the fact whether they are lying in the hands of the Applicants or in the hands of third parties.
2. The Applicant No.1 has filed the present Application for her ownself as well as in the capacity of sole legal heir of late Harshad Mehta who suddenly died in judicial custody on 30th December of 2001. The Applicant No.1 states that late Harshad Mehta is survived by 3 legal heirs viz. Smt. Rasila Mehta (mother), Shri Aatur Mehta (son), and the Applicant. This Applicant states that the other two legal heirs have already filed affidavits in numerous proceedings before this

Hon'ble Court that they are not claiming any right, title and interest in the estate of late Harshad Mehta. The Applicant No.1 states that therefore she is presently the sole legal heir defending the legal interest of late Harshad Mehta and hence the present Application is also filed by her for and on behalf of estate of late Harshad Mehta.

3. The Applicants state that except for the Applicant Nos.7 and 8 who got notified subsequently on 04.01.2007 all the other Applicants have got notified on 08.06.1992. However, for all practical purposes, the Applicant Nos.7 and 8 have been suffering the drastic consequences of notification from 08.06.1992 by virtue of the fact that all their assets and bank accounts were jointly held with other notified entities in the family because of which even their assets got attached u/s. 3(3) of the said Act. The Applicants state that because of the above, the assets of the Applicant Nos.7 and 8 have been under the control and management of the Custodian from 08.06.1992.
4. The Applicants state that the Respondent is the Custodian appointed u/s 3(2) of the said Act. The Applicants state that the role, responsibilities, duties, and functions of the Custodian are very well defined under the provisions of the said Act as well as through numerous Judgments of this and the Hon'ble Supreme Court of India, and the relevant extracts of which are furnished in an enclosed chart at **Exhibit-"A"**. The Applicants state that the Applicants have sought substantial reliefs against Custodian through the present Application. The Applicants state that it is the duty, obligation and responsibility of the Custodian to preserve, protect and augment the attached assets of the Applicants so as to ensure that it becomes available for a fair and an

equitable distribution u/s. 11(2) of the said Act for the benefit of creditors.

5. The Applicants state that Hon'ble Court has earlier held that the Custodian should take action and cause recovery of attached assets even where the notified entities fail to do so. The Applicants state that due to their notification and attachment of their assets and due to several unforeseen developments they have suffered because of several adverse factors during past 23 years. The Applicants state that even the Hon'ble Supreme Court of India has taken judicial notice of the peculiar conditions prevailing with the notified entities as recorded by it in para 35 of their judgment in the case of Harshad Mehta V/s. Custodian reported as **(1998) 5 SCC 1**. The said para reads as under:--

Para 35 - "Then on account of his property being attached he may not be in a position to deposit the tax assessed or file appeals or further proceedings under the relevant tax law which he could have otherwise done."

The Applicants state that thus even in view of the above, it is absolute duty and responsibility of the Custodian to protect, preserve and augment the attached assets of the Applicants and take all the steps for their recovery which is expected of him as set out in the present Application.

6. The Applicants state that it is well settled law as laid down by Hon'ble Supreme Court in the case of L.S. Synthetics V/s. FFSL reported as **(2004) 11 SCC 456** that the notified entities have locus to bring the facts of pending recovery of attached assets to the knowledge of this Hon'ble Court. It is also settled law that the Custodian is also required to trace

and recover the attached assets lying in the hands of third parties and report to this Hon'ble Court. In fact the Hon'ble Supreme Court has laid down that if and when the Custodian or the notified entities bring the facts of pending recovery of the attached assets to the knowledge of this Hon'ble Court then it becomes its duty to recover same and the law of limitation would not be applicable to such recovery proceedings. The Applicants state that therefore in case the Custodian fails to bring the facts to the knowledge of this Hon'ble Court only notified entities can do so and therefore Applicants should be fully supported in their endeavours of finding out cases where the Custodian is not discharging his above duties and hence this Application. The Applicants state that the main purpose of this Application has been to expedite the recovery of attached assets belonging to them.

7. The Applicants state the present Application is therefore filed by them to secure reliefs against the Custodian since it has become evident that the Custodian is not only deliberately failing in discharging his obligations but also preventing the notified entities from bringing the facts of pending recovery of attached assets to the knowledge of this Hon'ble Court in several cases including and mainly by denying them access to the records of the assets of the Applicants and all the facts, records documents and evidence relating to them which is exclusively in his possession as is duly explained hereinafter.
8. The Applicants state that the Custodian has been found to be acting malafide, illegally and governed by the following motives:-
 - a) That he has sought to maximize the assets under his management by abusing his powers of notification and

- has notified persons like Applicants most of whom have not violated any law.
- b) That he has a vested interest in continuation of his office which can be ensured by continued notification of Applicants and by delaying the distribution u/s. 11(2) of the Act.
- c) That Custodian wants to persecute Harshad Mehta and his family members and corporate entities promoted by them and has succeeded in doing so for past 23 years.
- d) That Custodian has abused his powers and position to confer huge monetary favours on several third parties by deliberately foregoing recovery of attached assets for amounts running into thousands of crores which obviously must be for some commercial considerations. That the facts have emerged that Custodian deliberately failed to recover attached assets of thousands of crores.
- e) That in order to achieve the above object the Custodian has created a hole in the assets of Harshad Mehta as he has impoverished the asset base and taken steps to mount false liabilities on him of thousands of crores and the clear object of above has been that he can then justify to take away the assets of the family members and corporate entities to meet these false liabilities of Harshad Mehta.
- f) That Custodian has colluded with revenue in several ways to confer huge monetary favours of thousands of crores on them. Custodian has taken steps so that unduly large sums are paid to revenue instead of banks (which was in violation of law laid down in this regard by Hon'ble Supreme Court) so that liability of thousands of crores of interest from banks is foisted on Harshad Mehta.

- g) That Custodian has also colluded with banks particularly after sudden demise of Harshad Mehta on 30.12.2001 to help them obtain exparte decree/orders against Harshad Mehta for amounts running into thousands of crores to which they were not entitled to in fact and law. These acts of fraud and collusion have now been uncovered by Applicant Smt. Jyoti Mehta which has already lead to reduction of claims by at least Rs. 1500/-crores.
- h) That Custodian has deliberately sold all appreciating assets of the Applicants like shares and has thereby caused losses to them of atleast Rs.8000 crores. That instances have come to light where shares are deliberately sold to broker Ashok Samani at very low prices without authority to pass on huge monetary benefits to them. In case of Smt. Rasila Mehta and Rina Mehta shares of several hundreds of crores have been sold in complete violation of scheme governed by sale of shares.
- i) That Custodian has deliberately taken several steps to paralyze the Applicants and their organization and to affect their ability to defend themselves. The Custodian has prematurely sold all their offices, seized their records and computers, taken away their staff and thereafter dispensed with their services and vigorously pursuing sale of their only residential premises to uproot them, denied them documents and opposed in granting any and every reliefs prayed for by Applicants even legitimately due to them.
- j) That Custodian has deliberately proposed false and legally untenable theories of Harshad Mehta group and that family members and corporate entities are fronts and benamidars of Harshad Mehta and that therefore their assets should be used to meet the liabilities of Harshad

Mehta without filing a single Application and in complete violation of law laid down by Hon'ble Supreme Court though several Judgments.

- k) That Custodian has misled the Courts by canvassing arguments contrary to facts and law and also suppressed the applicable law in a number of crucial proceedings to obtain favourable orders and thereby failed to discharge the duty cast upon him of acting as an officer of the Court.

In support of above contentions the Applicants rely upon a number of proceedings already initiated by them before this Hon'ble Court and Hon'ble Supreme Court when produced as also affidavits and replies filed by them in existing proceedings presently pending adjudication.

- l) The Applicants are aggrieved that the Custodian has been deliberately mismanaging the attached assets of the Applicants in a variety of ways for several malafide reasons and substantial facts and conclusive evidence have already emerged in support of the same..

9. The Applicants state that obviously this Hon'ble Court can discharge its duty of recovery of attached assets in terms of above Judgment in the case of L.S. Synthetics only provided the facts relating to pending recovery of attached assets are brought to its knowledge and towards this both Custodian and notified entities are required to discharge the onus. The present Application has therefore been filed by the Applicants to bring all the facts relating to pending recovery of attached assets in their case to the knowledge of this Hon'ble Court at the earliest and wherever Custodian is failing to do so the Applicants wishes to inform this Hon'ble

Court in that regard by taking several steps which are explained hereinafter.

10. The Applicants state that the present Application has been filed by them inter alia to seek the following reliefs:-

- a) Direction to Custodian to file status Report on the compliance made by him with various orders of this Hon'ble Court from 8th June 1992 onwards till date particularly relating to recovery of attached assets belonging to the Applicants or covering cases where by causing inquiry and investigation the same can lead to recovery of attached assets belonging to the Applicants.
- b) Direction to the Custodian to file status Report in regard to the recovery of attached assets caused/pending to be caused as the case may be in respect of orders passed by this Hon'ble Court, a list of which proceedings and orders are furnished at **Exhibit-B.**
- c) Direction to Custodian to explain the steps taken by him in causing recovery of attached assets from the time the facts have come to his knowledge in cases relating to pending recovery of attached assets which are presently lying in the hands of third parties and from the time this Hon'ble Court has directed him to recover attached assets lying in the hands of third parties.
- d) Direction to Custodian to furnish a plan to this Hon'ble Court for effecting the recovery of attached assets wherever it is pending to be recovered as per facts

disclosed in this Application stipulating the time limit in which the Custodian proposes to accomplish the task.

- e) Direction on Custodian to give complete access to the notified entities of all the records pertaining to their attached assets as and when the same is sought for by the Applicants.
- f) Direction to Custodian to always mark copies of their correspondence both outward and inward including copies of letters received from third parties to the concerned notified entities to enable them to take necessary action for recovery of the attached assets

11. The Applicants state that by now facts and evidence has already emerged in a number of proceedings both pending and disposed off before this Hon'ble Court that the Custodian has grossly mismanaged the attached assets of the Applicants in a number of ways and has deliberately not been recovering the attached assets belonging to the Applicants in some cases even from the year 1992 and onwards.

12. The Applicants state that though it has been held by this Hon'ble Court that the Custodian is an Officer of this Hon'ble Court, he has miserably failed in discharging his duties. The Applicants state that instead of achieving the objects of the Special Court, the Custodian has been acting malafide and acting against the interest of the Applicants and thereby their creditors and he is already found to have conferred huge monetary favours in a number of matters on the revenue, banks and third parties though they were not entitled to the same. That Custodian in this manner has abused his powers and position to persecute Harshad Mehta

and his family. In support of above contentions and allegations made on Custodian about his malafide conduct the Applicants rely upon the following:-

- a) That in order to maximize assets under his management, the Custodian has not only notified Harshad Mehta who alone had dealings with banks and financial institutions but even notified all his family members and corporate entities promoted by them totaling 31 entities. The Custodian has abused his powers u/s. 3(2) of the Special Courts Act by arbitrarily notifying the Applicants most of whom have not even violated any law of the land and has since then under false excuses kept their assets under attachment for past 23 years without any justification or even establishing their involvement. That the objects of the Act specifies that the Act has come into being to restore these monies back to banks which were allegedly diverted by banks through the dealings with some brokers. The Custodian after notifying the Appellants has failed to establish that monies belonging to banks have been diverted to the Applicants or that they have played any role in obtaining any such tainted monies. In fact it is not even established that Harshad Mehta has diverted any funds from banks save and except that some transactions undertaken by his brokerage firm have remained outstanding due to sudden stoppage of its business.
- b) That it is has already emerged that Custodian has deliberately failed to recover attached assets belonging to Harshad Mehta and his family members for an amount of Rs. 4156 crores the details in which

regard are furnished in an enclosed chart at **Exhibit-C**. It can be seen from the facts disclosed in above chart that despite knowing the facts of pending recovery of the attached assets in some cases from 1993 onwards, the Custodian has deliberately failed to cause recovery so much so that thereafter he has failed to even respond to a number of letters addressed to him by the Applicants calling upon him to recover the attached assets. In fact there is a clear pattern that whenever the Custodian is requested to recover attached assets by Smt. Jyoti Mehta he has not only ignored her letters but failed to take any steps for recovery and tried his level best to impede recovery and administration of justice.

- c) That to cite an example in respect of recovery of 2 crore Units from NHB when RBI clearly confirmed to Custodian on 3.9.1993 that the said 2 crore units were purchased by Harshad Mehta and paid for by him and therefore they belong to Harshad Mehta the Custodian after causing independent enquiries came to the same conclusion that the said 2 crores Units was a property of Harshad Mehta but yet instead of informing this Hon'ble Court and taking steps for recovery he instead sought advice of RBI on addressing a letter on 18.11.1993 whether to inform this Hon'ble Court about this fact and in support of our contentions the Applicants are pleased to enclose a copy of above letter addressed by Custodian to RBI on 18.11.1993 at **Exhibit-D**.
- d) The Applicants state that thereafter for 18 years Custodian did not disclose or recover these 2 crore Units and then when Smt. Jyoti Mehta discovered the facts she addressed letters to Custodian calling upon

him to recover these units on 16.6.2009, 28.10.2009, 18.2.2010, 17.5.2010 and 13.1.2011 but he deliberately failed to reply and also to recover these units. The Applicants state that being aggrieved Smt. Jyoti Mehta has now filed M.A. No.195 of 2011 before this Hon'ble Court which Application Custodian is now opposing and creating impediments for recovery of a large sum of Rs. 264 crores. The Custodian has perjured before this Hon'ble Court by filing an affidavit on 2.8.2012 falsely stating that he does not have specific knowledge about these Units and has in fact criticized Smt. Jyoti Mehta for the delay in filing her Application. That the NHB and RBI have now disclosed letters and correspondence of the relevant period which the Custodian has deliberately suppressed in his aforesaid affidavit. In fact there are numerous such incidents of non-action on part of Custodian and preventing Application from causing recovery of attached assets. In support of above contentions the Applicants pleaded to enclose a Dates and Events chart at **Exhibit-E** for the proceedings in M.A.195 of 2011 and craves leave of this Hon'ble Court to refer to and rely upon these proceedings when produced.

- e) That it has emerged that in a number of cases this Hon'ble Court directed the Custodian to recover the attached assets lying in the hands of third parties. However despite express orders from this Hon'ble Court he has deliberately failed to comply with them for a period of 20 years and above. That in support of above contentions the particulars of such orders of this Hon'ble Court are furnished in an enclosed chart at **Exhibit-F** which involves recovery of upwards of

Rs. 1000 crores and the above list is not exhaustive. In all the above cases the Custodian has conferred huge monetary favors on third parties particularly the erstwhile shareholders who have already sold the shares to the Applicants and received consideration thereagainst and obviously these favours are given for some consideration.

f) That it has emerged that hardly any steps were taken for recovery of such assets despite orders passed by this Hon'ble Court nor the Custodian has reported his failures to this Hon'ble Court or explained the difficulties faced by him in causing recoveries of such assets the value of which is easily running upwards of Rs.1000 crores. The Applicants state that the Custodian has not devised any system of reporting to this Hon'ble Court the progress being made by him in making compliance with various orders of this Hon'ble Court and absence of any such system has become the root cause for suppression of material facts of pending recovery from this Hon'ble Court and hence the reliefs prayed for by the Applicants are fully justified to secure compliance by Custodian.

g) That several instances have come to light where notified entities starting from Harshad Mehta and after his sudden demise his legal heir Smt. Jyoti Mehta have been addressing letters to the Custodian seeking disclosure of facts, documents and evidence in his possession for causing recovery of attached assets but in order to avoid exposure of his failures and to prevent any recoveries, the Custodian has not been replying to any of the letters or furnishing the necessary details and documents and in fact taking

an offence by making baseless allegations against the Applicants. That as a result of above and as per the facts presently available with the Applicants attached assets amounting to about Rs. 4781.75 crores are still remaining pending to be recovered from third parties the particulars of which are furnished in an enclosed chart at **Exhibit-G**. In the said chart complete particulars of pending recoveries and the number of letters written to Custodian in this regard by the Applicants have been disclosed. That the above list is not exhaustive and despite the fact that in several of cases where recovery is already caused and such amounts excluded from the list, the above list is still growing and many cases of pending recovery yet remain to be found out and hence this Application to find out the facts of such cases so that the recovery is expedited.

- h) That in fact because of the deliberate failures of the Custodian to respond in almost all the above cases, Smt. Jyoti Mehta and other Applicants have taken steps to file recovery Applications before this Hon'ble Court and in a few cases where it remains pending, the applications will be filed shortly. That because of the steps taken by the Applicants in recent times some recoveries of upto about Rs 400 crores and more have already been caused. In many of the above cases, where Applications for recovery have been filed and where adjudication is pending the Respondents have already admitted to receipt of attached assets and therefore further recoveries are likely to be caused in the near future.

- i) That in fact in two of such Applications being M.A. 13 and 14 of 2011 filed by Smt. Jyoti Mehta for causing recovery of attached assets, this Hon'ble Court was pleased to appoint a 3 member Committee in the office of the Custodian by an order dated 4.1.2013, a copy of which is enclosed at **Exhibit-H**. This Hon'ble Court has recorded the fact that recoveries of about Rs. 700 crores were pending in the aforesaid applications and that the Custodian has failed to offer any explanation for his failure to cause recovery.
- j) The Applicants state that it is pertinent to note that this Hon'ble Court directed the above Committee to file reports on a fortnightly basis disclosing the progress being made by the Committee so that an element of transparency and accountability as well as sense of urgency gets injected in the entire exercise of recoveries of attached assets. The Applicants state that initial steps taken by the Custodian and Applicants pursuant to the above order have already borne fruit in as much as recovery of shares and dividends of more than Rs. 300 crores have already been caused. The Applicants state that however from June 2014 after filing Report No. 17 of 2014 dated 13.6.2014 the Custodian has abruptly stopped filing Reports and complying with the orders of Hon'ble Special Court to file any Reports and therefore by a letter dated 8th September 2015 a notice has been served upon Custodian to comply with the above order or else face proceedings of Contempt of order of this Hon'ble Court. In support of above contentions the letter addressed by Smt. Jyoti Mehta on 8th September 2015 is enclosed at **Exhibit-I**. That after the above letter was addressed and grievance was

made before this Hon'ble Court the Custodian has filed one Report. Thus if Status Reports are filed by Custodian the same leads to expeditions recovery of attached assets.

- k) That in some of the cases based on letters addressed by Harshad Mehta, the Custodian had earlier preferred some Applications for recovery of attached assets when he was alive but however soon after sudden demise of Shri Harshd Mehta in judicial custody on 30th of December 2001, the Custodian gave up the legitimate claims of Harshad Mehta for recovery of attached assets of about Rs. 1062 crores in favour of SBI the details in which regard are furnished in an enclosed chart at **Exhibit-J**. The Applicants state that no sooner the aforesaid facts were discovered by Smt. Jyoti Mehta she has taken steps to recover the above attached assets of Harshad Mehta and she has already succeeded in recovering these assets.

- l) The Applicants state that the Custodian has colluded with the revenue by violating the provisions of the Special Courts Act and law laid down by Hon'ble Supreme Court of India in the case of Harshad Mehta V/s. Custodian reported as **(1998) 5 SCC 1** and in the case of DCIT Vs. SBI reported as **(2009) 2 SCC 451**. The Custodian and revenue have deliberately failed to comply with the directions given by Hon'ble Supreme Court of India to recall the monies from the revenue in para 39 of their Judgment in Harshad Mehta's case. In fact acting contrary to the aforesaid directions over the years the Custodian has secured release of further amounts and cumulatively a sum of

Rs. 3251.78 crores have been released in favour of revenue and in this manner the Custodian has completely subverted the objects of the Special Courts Act. The Applicants are pleased to enclose charts giving an orderwise and entity wise breakup of above amount of Rs.3251.78 crores at **Exhibit-K colly**.

- m) That therefore while the Hon'ble Supreme Court of India laid down the law that Special Courts Act has been set up primarily to redress the grievances of the banks and for the purposes read down the provisions of Section 11(2)(a) of the Special Courts Act and empowered this Hon'ble Court with substantial discretionary powers so as to restrict the demands of the revenue, acting contrary to it the Custodian has yet promoted the interest of revenue at the cost of interest of banks and notified entities. That some of the Applicants have recently on 2.9.2015 filed an affidavit in M.A. 135 of 2012 furnishing a broad asset and liability picture and they have duly explained the conduct of revenue and Custodian setting out the facts of their collusion and the Applicants crave leave of this Hon'ble Court to refer to and rely upon this affidavit when produced. That the above is stated so that this Hon'ble Court is presented with the facts of the overall conduct of Custodian towards the Applicants.
- n) The Applicants state that after the sudden demise of Harshad Mehta in judicial custody the Custodian was informed by his widow Smt. Jyoti Mehta that being a house wife and because of the sudden death of her husband she was incapable of defending her legal interest and that of late Harshad Mehta and sought

Custodian's assistance but none was provided. That instead of defending the legal interest of Harshad Mehta, the Custodian acting malafide has ensured that maximum damage of thousands of crores was caused to the estate of Shri Harshad Mehta and his family. To achieve above malafide object the Custodian colluded with banks particularly State Bank of India, SBI Caps, NHB and ANZ Grindlays Bank who played a fraud upon this Hon'ble Court to obtain decrees and orders in their favour for claims which are false and for amounts to which they are not entitled to. That the decrees have been obtained against the estate of Harshad Mehta which were known to them to be false, untenable and for amounts which were highly exaggerated to which they were not entitled to either in fact or in law. The Custodian colluded with them to help in obtaining decrees even for interest at high rate of 15% to 18% p.a. though he knew very well that in law no interest was leviable on solvent notified entity like Harshad Mehta after the date of his notification. That therefore Smt. Jyoti Mehta has taken necessary steps and filed 6 civil Appeals before Hon'ble Supreme Court challenging 6 ex parte deces/orders of this Hon'ble Court particulars of which are furnished in an enclosed chart at **Exhibit-L.**

- o) The Applicants state that besides above, a number of cases have come to light where the Custodian has failed to take steps for recovery of the attached shares, failed to obtain duplicate shares, failed to recover missing/stolen and benami shares and it has become apparent from such cases that the Custodian is waiting for the facts to be discovered by the

Applicants and perhaps only thereafter will decide whether to take any action for recovery of attached assets or not. The Applicants state that while the Custodian is in exclusive possession of all the facts and records but he is not parting with them and waiting to see whether the Applicants can discover these facts and report them to this Hon'ble Court. The Applicants state that the obvious motives of the Custodian is to avoid any discovery of facts and exposure of his failures so that his malafide objects are achieved. The Applicants state that by adopting such an approach the Custodian is delaying discovery of facts and also recovery of the attached assets. The Applicants state that it is therefore necessary that office of Custodian becomes transparent as well as accountable to this Hon'ble Court and the Custodian be given directions to come clean before this Hon'ble Court by giving complete account of compliance made by his office till date in all matters relating to recovery of attached assets both covering the pending and potential cases of recovery.

- p) The Applicants state that since the Custodian's office is not transparent and accountable some of the Applicants have earlier filed numerous Applications relating to their own attached assets under the RTI Act, 2005. The Applicants state that the office of the Custodian has denied information to the Applicants even under the RTI Act in almost all cases on one flimsy ground or the other and opposing tooth and nail supply of information and documents sought for by the Applicants. The Applicants state that in fact in some of the cases they had to lodge their appeals even before Chief Information Commissioner (CIC)

who was pleased to grant the reliefs to the Applicants and issued directions to the Custodian to make the information available in terms of their Application and only thereafter the Custodian granted access and made some of the documents available though he has failed to fully comply with the requirements. In support of above contentions, the Applicants rely upon a number of Applications filed by them under the RTI Act and thereafter the Appeals filed by them as and when produced. The Applicants state that though the Custodian has issued a Circular to his Officers on 06.3.2013, a copy of which is enclosed at **Exhibit-M** where he has advised that the provisions of the RTI Act should be fully complied with but the same is not practiced at the ground level. The Applicants state that even in view of the aforesaid background it is absolutely essential that the Custodian is given directions that his office becomes transparent and accountable as he is responsible to act and comply with under the applicable law.

13. The Applicants state that despite the fact that a long period of 23 years have passed since their notification but it is only at the behest of the Applicants and also because of the orders passed by this Hon'ble Court that some recoveries of few hundred crores have already taken place and the Custodian has been compelled to initiate some steps towards compliance though they are not commensurate with the pending task on hand and unless the documents and records are made available by Custodian the entire process of recovery of attached assets can take years. The Applicants state that therefore unless the reliefs prayed for by them are granted by this Hon'ble Court, it may take several years for the above pending recoveries of the attached assets to get

caused. The Applicants state that it is obvious that the Custodian is interested in continuation of his office which can be ensured only by causing delay in recovery of the attached assets and even therefore the Custodian has a vested interest in causing delay in recovery of assets. The Applicants state that even in this view of the matter, this Hon'ble Court may grant the reliefs prayed for by them.

14. The Applicants state that they wish to play an active role in expediting the recovery of attached assets, but they are seriously handicapped since all the facts, original records and evidence are in exclusive possession of the Custodian to which they have restricted or virtually given no access. The Applicants have already proved their bonafides by filing a number of Applications before this Hon'ble Court for causing recovery of the attached assets, the details of which are already furnished in the charts enclosed with the present Application. That the efforts made by the Applicants have already resulted into recovery of assets of several hundreds of crores already and further recovery of a few thousand crores is bound to be caused due to Applications filed by them. The Applicants state that the Custodian does not reply or furnish the particulars and documents though false claims to the contrary are made before this Hon'ble Court whenever a grievance is made in that regard.
15. The Applicants state that even otherwise they are not happy with the efforts of the Custodian in some applications filed till date and wish to expedite the recovery of attached assets and the same can be achieved only provided the Applicants are given complete access to all the aforesaid facts, records and evidence presently lying in exclusive possession of Custodian so that they can also file further Applications and take effective steps for recovery of attached assets wherever

it is still pending. The Applicants state that even therefore this Hon'ble Court may grant the prayers made by the Applicants.

16. The Applicant Ashwin Mehta states that by order dated 4.1.2013 in M.A. 13 and 14 of 2011 this Hon'ble Court has already directed the 3 member Committee in Custodian's office to take into consideration the suggestions of Ashwin Mehta. The Applicant Ashwin Mehta states that after observing the pace and progress made till date by the Custodian he suggests that the entire process of recovery of attached assets can be expedited if the office of the Custodian functions in a transparent and accountable manner and gives access to the records in Custodian's exclusive possession which can then become the basis to expeditiously process and file Applications in all the matters of pending recovery. The Applicant Ashwin Mehta states that presently they find it difficult even to obtain inspection of the records from the office of Custodian and information is virtually not supplied to the Applicants despite repeated efforts and therefore taking into consideration the suggestions of Ashwin Mehta, the reliefs prayed for by the Applicants may be granted. In support of above contentions the Applicants rely upon a number of letters addressed to Custodian in the past seeking information and inspection which have not been responded to by the Custodian when produced.

17. The Applicants states that the Advocates representing the Custodian have themselves admitted before this Hon'ble Court in a number of proceedings that the Custodian does not have requisite experience and expertise on issues relating to shares and they are not able to comprehend from records in their possession how to proceed with issues

regarding the recovery of shares and accruals thereon. It has emerged that even where the Custodian has decided to cause recovery of attached assets it takes several months and sometimes more than years to even file applications for recovery. The Applicants state that if once these facts, records and evidence are made available to them they will expeditiously file Applications for recovery of attached assets and even in this view of the matter the reliefs prayed for in the present Application may kindly be granted.

18. In the facts and circumstances stated above, the Applicants pray to this Hon'ble Court to be pleased to issue.
 - a) Direction to Custodian to file status Report on the compliance made by the Custodian since 8th June 1992 with various orders of this Hon'ble Court for causing recovery of attached assets belonging to the Applicants or where by causing inquiry and investigation the same can lead to recovery of attached assets.
 - b) Direction to the Custodian to file the status Report in regard to the recovery of attached assets caused/pending to be caused as the case may be in respect of orders passed by this Hon'ble Court, as per list of orders furnished at Exhibit-B.
 - c) Direction to Custodian to explain the steps taken by him in causing recovery of attached assets from the time the facts have come to his knowledge that attached assets are lying in the hands of third parties and from the time this Hon'ble Court has directed him to recover attached assets lying in the hands of third parties in numerous proceedings.
 - d) Direction to Custodian to furnish a plan to this Hon'ble Court for effecting recovery of attached assets wherever it is pending to be recovered as per facts disclosed in this

Application by stipulating the time limit in which the Custodian proposes to accomplish the task.

- e) Direction on Custodian to give complete access to the Applicants to all the records and documents pertaining to their attached assets as and when the same is sought for by the Applicants.
- f) Direction to Custodian to always mark copies of their correspondence both outward and inward including copies of letters received from third parties to the concerned notified entities to enable them to take necessary action for recovery of the attached assets and make statutory compliance.

And for this act of justice and kindness, the Applicant shall duty bound ever pray.

Place : Bombay

Date : .11.2015

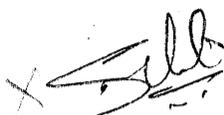
JH Mehta
SMT JYOTI H MEHTA
Applicant No.1

Amz
SHRI ASHWIN S MEHTA
Applicant No.2

DA Mehta
SMT DEEPIKA A MEHTA
Applicant No.3

H Mehta
DR HITESH S MEHTA
Applicant No.4

Pratima H. Mehta
DR PRATIMA H MEHTA
Applicant No.5

X 

SHRI SUDHIR S MEHTA
Applicant No.6

X 

SMT RASILA S MEHTA
Applicant No.7

X 

SMT RINA S MEHTA
Applicant No.8

For M/S. GROWMORE RESEARCH
& ASSETS MANAGEMENT LTD

X 

(Ashwin S. Mehta)
Director
Applicant No.9

For M/S GROWMORE LEASING &
INVESTMENTS LTD.

X 

(Ashwin S. Mehta)
Director
Applicant No.10

For M/S GROWMORE EXPORTS LTD

X 

(Ashwin S. Mehta)
Director
Applicant No.11

For M/S ORION TRAVELS PVT LTD.

X 
(Ashwin S. Mehta)
Director
Applicant No.12

For M/S PALLAVI HOLDINGS
PVT LTD

X 
(Ashwin S. Mehta)
Director
Applicant No.13

For M/S TOPAZ HOLDINGS
PVT LTD


(Ashwin S. Mehta)
Director
Applicant No.14

For M/S HARSH ESTATES
PVT LTD

X 
(Ashwin S. Mehta)
Director
Applicant No.15

For M/S AATUR HOLDINGS
PVT LTD


(Ashwin S. Mehta)
Director
Applicant No.16

For M/S FORTUNE HOLDINGS
PVT LTD



(Hitesh S. Mehta)
Director
Applicant No.17

For M/S ZEST HOLDINGS PVT LTD



(Hitesh S. Mehta)
Director
Applicant No.18

For M/S DIVINE HOLDINGS
PVT LTD



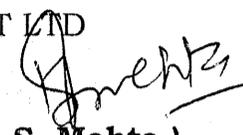
(Hitesh S. Mehta)
Director
Applicant No.19

For M/S VELVET HOLDINGS
PVT LTD



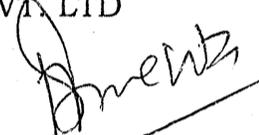
(Hitesh S. Mehta)
Director
Applicant No.20

For M/S EMINENT HOLDINGS
PVT LTD

X 
(Hitesh S. Mehta)

Director
Applicant No.21

For M/S CASCADE HOLDINGS
PVT. LTD

X 
(Hitesh S. Mehta)

Director
Applicant No.22

VERIFICATION

I, Ashwin S Mehta, Hindu, Adult, Indian Inhabitant, residing at 32, Madhuli, Dr. Annie Besant Road, Worli, Mumbai 400 018, do hereby declare that what is stated in the foregoing Misc. Application is true to my own knowledge.

Solemnly affirmed at Mumbai)

Dated this ____ day of November 2015)

X 
(Ashwin S. Mehta)
Applicant No.2

Lodging No. 1/2016
4/1/2016. ³⁰

BEFORE THE SPECIAL COURT (TRIAL OF
OFFENCES
RELATING TO TRANSACTIONS IN
SECURITIES) ACT 1992

MISC. APPLICATION NO. **8** OF 201**6**

SMT. JYOTHI H. MEHTA & ORS

..APPLICANTS

V/s

CUSTODIAN

..RESPONDENT

MISC. APPLICATION

Dated this 24th day of November 2015

decently

Smt. Ashwin S. Mehta
32, Madhuli,
Dr. Annie Besant Road,
Worli, Mumbai - 400 018.